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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,514	11/06/2001	Michael Landau	59149-8002.US01	1534
22918	7590	12/09/2008		
PERKINS COIE LLP P.O. BOX 1208 SEATTLE, WA 98111-1208			EXAMINER VAN BRAMER, JOHN W	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 12/09/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/005,514

Applicant(s)

LANDAU ET AL.

Examiner

JOHN VAN BRAMER

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-10,12-17,19-25,27-34 and 36-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10,12-17,19-25,27-34 and 36-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendment filed on August 19, 2008 cancelled claims 3, 11, 18, 26, and 35. Claims 1, 9, 16, 24, 32, 40-42, and 49 have been amended and no new claims were added. Thus the currently pending claims addressed below are claims 1, 2, 4-10, 12-17, 19-25, 27-34, and 36-53.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4-10, 12-17, 19-25, 27-34, and 36-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bezos et al. (US Patent Number: 6,029,141) in view of Griebenow et al. (U.S. Patent Number: 5,850,520).

Claims 1, 9, 16, 24, 32, 34, 41, 42, 44, 49, 50, and 51: Bezos discloses a method, system, program, and apparatus for providing performance based referral credit based on user transactions utilizing a network comprising:

- a. Allowing a referring entity to present a publication to facilitate a user's product purchase, the referring entity being assigned a unique identifier associated with the product purchase. (Col 1, line 50 through Col 2, line 18; and Col 7, lines 6-40)

- b. Receiving input from the user, in response to the referring entity presenting the product to the user utilizing a network, wherein the user input includes at least the user's e-mail address and any preferences supplied by the user. (Col 7, lines 52-60)
- c. Assigning a tracking code associated with the user's product that traces to the user input and the unique identifier. (Col 8, lines 17-48)
- d. Forwarding the product to the user utilizing the network after the user purchases the product. (Col 7, lines 52-60)
- e. Allowing the user to select an entity associated with the publication. (Col 14, lines 1-37)
- f. Identifying the tracking code when the user conducts a transaction with the entity in order to provide a credit to the referring entity, whereby the referring entity receives credit for the transaction resulting from the user's purchase. (Col 1, line 50 through Col 2, line 18; and Col 14, line 38 through Col 15, line 16)

While Bezos does not specifically state that the product purchased is a subscription to a periodical, the analogous art of Griebenow discloses that it is well known to sell subscriptions to periodicals over a network (Griebenow: Col 4, lines 2-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the products disclosed by Bezos to include the subscription to periodicals disclosed by Griebenow. The rationale for including such products is that subscriptions to periodicals are one of a limited number of predictable products that are known to be sold via the Internet.

Claims 2, 10, 17, 25, 33, and 43: Bezos and Griebenow disclose a method, system, program, and apparatus as recited in claims 1, 9, 16, 24, 32, and 42 wherein the publication includes at least one of a newsletter and an e-mail announcement. (Col 1, line 50 through Col 2, line 18)

Claims 4, 12, 19, 27, 36, 45, and 52: Bezos and Griebenow disclose a method, system, program, and apparatus as recited in claims 1, 9, 16, 24, 32, and 42, wherein the entity associated with the publication is represented by at least one of a link, an advertisement, contact information, an input button, a script, and a drop down menu. (Col 7, lines 6-60)

Claims 5, 13, 20, 28, 37, and 46: Bezos and Griebenow disclose a method, system, program, and apparatus as recited in claims 1, wherein the network includes at least one of a wide area network and a local area network. (Col 11, lines 50-61)

Claims 6, 14, 21, 29, and 38: Bezos and Griebenow disclose a method, system, program, and apparatus as recited in claims 1, 9, 16, 24, 32, and 42, further comprising providing compensation for the credit of the referring entity. (Col 7, lines 6-60)

Claims 7, 15, 22, 30, 39, 47, and 53: Bezos and Griebenow disclose a method, system, program, and apparatus as recited in claims 6, 14, 21, 29, 32, 42 and 52, wherein the compensation includes monetary compensation, return referrals, discounted services, and no-charge services. (Col 7, lines 6-60)

Claims 8, 23, 31, 40, and 48: Bezos and Griebenow disclose a method, system, program, and apparatus as recited in claims 1, 9, 22, 24, 32, and 42, wherein the tracking code includes the unique identifier associated with the user's subscription. (Col 14, line 38 through Col 15, line 16)

Response to Arguments

4. Applicant's arguments with respect to claims 1, 2, 4-10, 12-17, 19-25, 27-34, and 36-53 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN VAN BRAMER whose telephone number is (571)272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J.V.

/J. V./

Examiner, Art Unit 3622

/Eric W. Stamber/

Supervisory Patent Examiner, Art Unit 3622